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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/690,899	10/22/2003	Seiichi Arakawa	9369-94US (U01-161916C/KK)	6365
570	7590	06/07/2006	EXAMINER	
AKIN GUMP STRAUSS HAUER & FELD L.L.P. ONE COMMERCE SQUARE 2005 MARKET STREET, SUITE 2200 PHILADELPHIA, PA 19103			POULOS, SANDRA K	
			ART UNIT	PAPER NUMBER
			1714	

DATE MAILED: 06/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/690,899

Applicant(s)

ARAKAWA ET AL.

Examiner

Sandra K. Poulos

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 22 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date. _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. All outstanding rejections and objections except for those described below are overcome by applicant's amendment filed 3/20/06.

The new grounds of rejection set forth below are necessitated by applicant's amendment filed 3/22/06. In particular, claims 2 and 3 have been amended to be further limited with by specifying that component (B) must comprise "an amorphous copolyamide resin" and claim 5 now recites that the "polyamide resin composition has an antifreeze resistance value greater than about 70%", wherein these limitations were not present in the initial claims. Thus the following action is properly made **FINAL**.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 5 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claim 5 now recites "the polyamide resin composition has an antifreeze resistance value greater than about 70%". It is the examiner's position that this phrase fails to satisfy the written description requirement of 35 USC 112, first paragraph since there does not appear to be a written description requirement of the above phrase in the application as originally filed, *In re Wright*, 866 F.2d 422, 9 USPQ2d 1649 (Fed. Cir. 1989) and MPEP 2163. Applicant has pointed

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to Table 1 for support; however there is no reference to "antifreeze resistance value" as such in the specification or tables. Furthermore, applicant does not have support for the entire range of "greater than about 70%" for resistance to antifreeze or the endpoint of 70%. Applicant appears to only have support for 82-88%.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 1-4 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hayashi (WO 95/20630) in view of JP 57-080448, wherein the JPO abstract is used hereafter.

The rejection is adequately set forth in paragraph 5 of Office action mailed 12/19/05 and is incorporated herein by reference.

Applicant has amended the claims so that that aromatic polyamide resin (B) is disclosed as amorphous. Although Hayashi does not explicitly disclose that the resin is amorphous, it discloses the same terephthalic/isophthalic units and an aliphatic diamine component as that currently claimed; thus it is considered to be inherently amorphous. Further, "from the standpoint of patent law, a compound and all its properties are inseparable," *In re Papesch*, 315 F.2d 381, 391, 137 USPQ 43, 51 (CCPA 1963). Moreover, where the claimed and prior art products are identical or substantially identical in structure or composition, or are produced by identical or substantially identical processes, a prima facie case of either anticipation or obviousness has been established, *In re Best*, 562 F.2d 1252, 1255, 195 USPQ 430, 433 (CCPA 1977), and further "when the PTO shows a sound basis for believing that the products of the applicant and the prior art are the same, the applicant has the burden of showing that they

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are not," *In re Spada*, 911 F.2d 705, 709, 15 USPQ2d 1655, 1658 (Fed. Cir. 1990). In fact, "products of identical chemical composition can not have mutually exclusive properties," and a chemical composition and its properties are inseparable. *In re Spada*, 911 F.2d 705, 709, 15 USPQ2d 1655, 1658 (Fed. Cir. 1990).

Response to Arguments

4. Applicant's arguments, see page 11, filed 3/22/06, with respect to the rejection under 35 USC 103(a) of claims 1-6 as being unpatentable over Hayashi in view of Katayama have been fully considered and are persuasive, in particular, that Katayama teaches a copolymer of Nylon 6 and Nylon 66 rather than a mixture of Nylon 6 and Nylon 66. The rejection has been withdrawn.

Applicant's arguments with respect to Hayashi in view of JP '448 have been fully considered but they are not persuasive. In particular, applicant argues that Katayama shows that incorporating Nylon 12 into a composition with Nylon 66 would result in inferior weld strength. However, the rejection as set forth did not use Katayama as a reference, and since nowhere in Hayashi or JP '448 is there indication that adding Nylon 12 to Nylon 66 would be counterproductive, in fact it appears that combining components of the references would result in a polyamide composition with good calcium chloride resistance, the rejection is maintained.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Translations of JP 58/53950 discloses mixture of Nylon 66, glass fibers, and amorphous polyamide.

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Translation of JP 2002/114905 discloses a mixture with improved anti-freezing property that includes Nylon 66, glass fibers, and an aromatic polyamide.

Translation of JP 57/212252 discloses a polyamide composition resistance to calcium chloride that comprises nylon 66 and nylon 12.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sandra K. Poulos whose telephone number is (571) 272-6428. The examiner can normally be reached on M-F 7:30-4:30 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on (571) 272-1119. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SKP

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